

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE NEW YORK CITY DISTRICT	:	
COUNCIL OF CARPENTERS PENSION FUND,	:	
WELFARE FUND, ANNUITY FUND, AND	:	25-CV-3398 (JMF)
APPRENTICESHIP, JOURNEYMAN RETRAINING,	:	
EDUCATIONAL AND INDUSTRY FUND et al.,	:	<u>MEMORANDUM OPINION</u>
	:	<u>AND ORDER</u>
Petitioners,	:	
	:	
-v-	:	
	:	
ALUNIQUE CONSTRUCTION CORP.,	:	
	:	
Respondent.	:	
-----X	:	

JESSE M. FURMAN, United States District Judge:

On April 24, 2025, Petitioners filed a Petition to Confirm Arbitration. ECF No. 1. On April 28, 2025, the Court set a briefing schedule for Petitioners’ submission of any additional materials in support of the Petition, Respondent’s opposition, and Petitioners’ reply. ECF No. 7. Petitioners served Respondent with the Petition, supporting materials, and the briefing schedule. ECF Nos. 8-10. Pursuant to the briefing schedule, Respondent’s opposition was due no later than June 6, 2025. ECF No. 7. When Respondent failed to oppose by that deadline, the Court *sua sponte* granted Respondent a courtesy extension until June 18, 2025, and warned that if Respondent failed to oppose by that date, “the Court will deem the Petition unopposed.” ECF No. 11. To date, Respondent has neither responded to the petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, “as akin to a motion for summary judgment based on the movant’s submissions.” *Trs. for Mason Tenders Dist. Council*

Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Constr. Corp., 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After reviewing the Petition and the supporting materials, the Court finds that there is no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.


The Court also awards Petitioners' requested attorneys' fees and costs, but modifies the requested pre-judgment interest rate. Here, Petitioners have met their burden of proving the reasonableness and necessity of hours spent, rates charged, and litigation costs incurred. *See Int'l Chem. Workers Union (AFL-CIO), Local No. 227 v. BASF Wyandotte Corp.*, 774 F.2d 43, 47 (2d Cir. 1985) ("[W]hen a challenger refuses to abide by an arbitrator's decision without justification, attorney's fees and costs may properly be awarded." (internal quotation marks omitted)). The Court also grants Petitioners' request for pre-judgment interest, *see Waterside Ocean Navigant Co. v. Int'l Navigation Ltd.*, 737 F.2d 150, 154 (2d Cir. 1984) (adopting a "presumption in favor of pre-judgment interest"), but at a rate of 9% instead of the requested rate of 10.5%. "District courts have discretion to set prejudgment interest rates," *New York City Dist. Council of Carpenters v. Allied Design & Constr., LLC*, 335 F. Supp. 3d 349, 353 (E.D.N.Y. 2018), and "[t]he common practice among courts within the Second Circuit is to grant interest at a rate of nine percent, the rate of pre-judgment interest under New York State law," *Herrenknecht Corp. v. Best Rd. Boring*, No. 06-CV-5106 (JFK), 2007 WL 1149122, at *3 (S.D.N.Y. Apr. 16, 2007) (internal quotation marks omitted); *see e.g., Trs. of New York City*

Carpenters Relief & Charity Fund v. Ratto Constr. Co., No. 24-CV-8787 (JMF), 2025 WL 487432, at *1 (S.D.N.Y. Feb. 12, 2025). Petitioners have provided no reason to depart from this common practice.

Accordingly, the Court grants Petitioners' unopposed Petition to confirm the Award, albeit with pre-judgment at a rate of only 9%. Petitioners are directed to file their Proposed Judgment electronically, consistent with this Memorandum Opinion and Order, using the ECF Filing Event "Proposed Judgment," no later than **June 27, 2025**.

SO ORDERED.

Dated: June 23, 2025
New York, New York



JESSE M. FURMAN
United States District Judge